

PLEASE FILE IN CASE

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHN RICHARD JAE,
Plaintiff,

vs.

KENNETH D. KYLER, et al.,
Defendants.

1 CTIN No. 1-CK-00
1 U.S. District Judge Ram
1 Magistrate Judge
FILED
HARRISBURG

DEC 21 2000

MARY E. D'ANDREA, CLERK
Per. MA
DEPUTY CLERK

PLAINTIFF'S REPLY BRIEF TO DEFENDANTS' MEMORANDUM
IN OPPOSITION TO MOTION TO REMAND ACTION BACK
TO STATE COURT

COMES NOW, the Plaintiff and his counsel in the
above entitled Civil Action, John Richard Jae, as a Layman who has studied in the
sciences of the laws & legal procedures within the United
States, pursuant to LR 7.8 of this court, files his Plaintiff's
Reply Brief to Defendants' Memorandum in opposition
motion to Remand Action Back to State Court, & who avers, deposes,

On or About November 15, 2000, Plaintiff John Richard
filed his Motion For Remand of Case Back to State Court
And Brief In Support, herein this case.

On or About November 27, 2000, Plaintiff filed his Answer
Motion For Remand of Case Back to State Court And Answer
Brief In Support, herein this case.

On or About December 4, 2000, Defendants, by counsel, filed
Memorandum In Opposition to Motion to Remand Action
to State Court, herein this case.

This is the Plaintiff's Reply Brief to Defendants' Memorandum
Opposition to Motion to Remand Action Back to State Court.
First, Plaintiff objects to Defendants' Memorandum
as to the Motion to Remand. It is a Reply to the

Court, and avers that such should be stricken and not considered by this court, as such pleading is not in proper form/is "not" a proper response, as Plaintiff filed a Motion For Remand of Case Back To State Court And Brief In Support, "not" a "Motion To Remand Action Back To State Court, as Defendants state in their Memorandum.

Defendants claim & argue, that=

Defendants properly removed this action because the complaint states claims under the United States Constitution. " "

However, Plaintiff avers & submits, that, first of all, Defendants did state the above as their reason for removing this action to this Federal court in their Notice of Removal and in their Removal Petition, herein this case and, in fact, did not state any ground/reason for removing this action to Federal Court at all ~~in~~ their "Notice of Removal" and in their Removal Petition as they are "legally" required to by 28 U.S.C. § 1446 & thus, Defendants' Removal Petition Notice of Removal "are" legally insufficient as a matter of law & Defendants "have" clearly violated and failed to comply with the requirements of 28 U.S.C. § 1446 & should not be rewarded by being allowed to continue this action before this Federal and the deliberate and knowing failure to comply with the requirement of 28 U.S.C. § 1446, that they state their reasons for removing this action to Federal court divests this court of proper jurisdiction of this case.

Although, the above is enough reason to legally require this court to remand this case back to state court. (see Defendants Memorandum In Opposition To Motion To Remand Case Back To State Court at 2)

Court, all by itself, Plaintiff avers & submits, that
 second of all, Defendants' claim/argument that
 Defendants properly removed this action because the
 Complaint states claims under the United States
 Constitution is just not a good enough reason for
 removal of this action from State Court to Federal court
 and such defers and is contrary to rulings of Federal
 courts that state courts are competent to hear federal
 claims. State courts have the inherent authority to and
 presumptively competent to adjudicate claims arising
 under the laws of the United States. Taffin v. Levitt, 49
 U.S. 455, 458 (1990). In fact, states are compelled by the
 Supremacy Clause to enforce federal law. See Hawlett v.
 496 U.S. 356, 367, 110 S. Ct. 2430 (1990) (holding that states
 mandated to hear 42 U.S.C. § 1983 actions and explaining
 federal law is enforceable in state courts because the Constitution
 and laws passed pursuant to it are as much laws in the
 states as laws passed by the state legislature) and further
 by removing this action from state to this federal court,
 defendants have illegally deprived the plaintiff of his
 to choose which forum to proceed with this action
 and Plaintiff contends that the real reason as to why the
 Defendants removed this case to this federal court is
 that plaintiff would be prevented from exercising his
 to appeal the decision if this court enters final judgment
 any form in Defendants' favor, as they were/are aware that
 cannot appeal any adverse decision of this court to the
 United States Court of Appeals for the Third Circuit, as
 has three strikes & more against him & would have to pay
 the filing fee for such appeal upfront all at once, which
 can't do, but would not have to do in any appeal from state
 court.

Defendants next claim & argue, that =

"Plaintiff incorrectly argues that Defendants must demonstrate that they cannot protect their federal rights in state court as appropriate to removal. Pl. br. at 2. Plaintiff apparently relies on 28 U.S.C. § 1443, which authorizes the removal of a state law claim. 113/

However, in reply to the above, Plaintiff avers & submits that he has "not" incorrectly argued such, as there is no at all in 28 U.S.C. § 1443 that says such only applies to removal of a state law claim and the Defendants are forcing something into this statute that just isn't there, and it is them, not Plaintiff who is incorrect here.

Finally, Defendants claim & argue, that =

"This case was properly removed under § 1441 because complaint clearly invokes federal law. Accordingly, plaintiff's motion to remand should be denied."

However, plaintiff avers & submits, in reply to such, that the case was "not" properly removed under § 1441 and as a matter plaintiff's motion to remand should be granted and the case should be remand back to the State Court.

RESPECTFULLY SUBMITT

Dated = 17th December 2000 =

(S) John Richard Doe
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Plaintiff and P. Sec. Can

CERTIFICATE OF SERVICE

I certify that on 18/12/00, I mailed to the person listed below a true correct carbon copy of this Reply Brief by 1st Class Mail, Postage paid.
MR. MICHAEL L. HARVEY, SDAG
Office of the Attorney General Pennsylvania
15th Floor, Strawberry Square
Harrisburg, PA 17120
Dated/Executed on = 18th December 2000 =

(S) John Richard Doe
MR. JOHN RICHARD DOE
Plaintiff and P. Sec. Can